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July 5, 2023

VIA ECF

The Honorable Jennifer L. Rochon
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *National Union Fire Insurance Company of Pittsburgh, Pa. v. Surgalign Spine Technologies, Inc., f/k/a RTI Surgical Inc.; and Organogenesis, Inc. f/k/a Nutech Medical, Inc.*, 1:22-cv-09870 (JLR)
Joint Letter Regarding Surgalign's Bankruptcy Filing

Dear Judge Rochon:

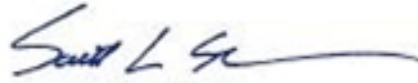
We represent Plaintiff National Union Fire Insurance Company of Pittsburgh, Pa. ("National Union") in the above-captioned matter. In accordance with your Honor's order, dated June 26, 2023, we submit this letter jointly with counsel for Defendant Organogenesis, Inc. f/k/a Nutech Medical, Inc. ("Organogenesis") to state our positions on the impact of the automatic stay on this case, including on Organogenesis' pending motion to dismiss.

National Union's position is that the automatic stay rendered by Surgalign's bankruptcy does not extend to non-debtor, non-affiliated parties such as Organogenesis. The Second Circuit has made clear that "stays pursuant to 11 U.S.C. §362(a) are limited to debtors and do not encompass non-bankrupt co-defendants." *Teachers Ins. & Annuity Ass'n of Am. v. Butler*, 803 F.2d 61 (2d Cir. 1986). Should the Court seek to extend the bankruptcy stay to Organogenesis, National Union respectfully requests the opportunity to fully brief the issue.

Organogenesis' position is that it is not aware of any authority mandating imposition of the automatic stay to Organogenesis or the claims National Union has brought against Organogenesis. However, if the Court deems it appropriate to stay the claims pending resolution of Defendant Surgalign Spine Technologies, Inc.'s (f/k/a RTI Surgical Inc.) bankruptcy proceeding given that National Union's claims against both defendants are so heavily intertwined, Organogenesis has no objection to staying these proceedings.

In the meantime, the Parties have discussed engaging in a pre-discovery exchange of information that could potentially facilitate settlement negotiations.

Respectfully Submitted,



Scott L. Schmookler (*Pro Hac Vice*)

*Counsel for National Union Fire Company of
Pittsburgh, PA.*

cc: Counsel of Record (via ECF)

This action is hereby stayed as to Defendant Surgalign Spine Technologies, Inc. ("Surgalign") only, based on the pending bankruptcy proceeding. Surgalign shall submit a status letter by **January 5, 2024**, updating the Court on the status of the bankruptcy proceeding.

Plaintiff and Defendant Organogenesis, Inc. may submit a letter requesting a referral to the Court-annexed mediation program or a settlement conference with Magistrate Judge Wang to facilitate settlement negotiations, if helpful.

Dated: July 6, 2023
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge